

PURSUANT TO LOCAL RULE 83.11

1. Is this a case that has been previously dismissed?

Yes
 No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

2. Other than stated above, are there any pending or previously discontinued or dismissed companion cases in this or any other court, including state court? (Companion cases are matters in which it appears substantially similar evidence will be offered or the same or related parties are present and the cases arise out of the same transaction or occurrence.)

Yes
 No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

Notes :

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

SANDIPKUMAR PATEL,

Plaintiff,

v.

Case No.

Hon.

**TRINITY HEALTH
CORPORATION and TRINITY
HOME HEALTH SERVICES
(a.k.a. Trinity Health At Home
and St. Joseph Home Care &
Hospice),**

Defendants.

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COMPLAINT AND DEMAND FOR TRIAL BY JURY

There is no other civil action pending in this Honorable Court or any other Court arising out of the same transaction and occurrence.

NOW COMES Plaintiff, SANDIPKUMAR PATEL, for his Complaint against Defendants, TRINITY HEALTH CORPORATION and TRINITY HOME HEALTH SERVICES (a.k.a. Trinity Health At Home and St. Joseph Mercy Home Care & Hospice), stating the following:

INTRODUCTION

1. Plaintiff Sandipkumar Patel, an individual of Indian national-origin and Asian race, was employed with the Defendants as a Senior Physical Therapist for over four (4) years until he was abruptly suspended and then terminated after inquiring into equal pay and wage issues, discriminatory job promotions/classifications.

2. Beginning on or about May 21, 2017, the Defendants implemented payroll changes that Defendants stated would be based on physical therapists' education, credentials, and experience. Soon after these changes were implemented, Mr. Patel noticed that his paycheck was lower than it had been previously, and that his employer was no longer recognizing him as a "Senior Physical Therapist." All of the other physical therapists at his location who received this designation were Caucasian. All of the physical therapists working at his location who were of Indian national-origin and Asian race, were not maintained at, or otherwise given, Senior Physical Therapist status. Mr. Patel, and the other Indian and Asian physical therapists, were demoted and/or otherwise not promoted when the payroll changes were implemented. Mr. Patel had

substantially similar or more advanced education, credentials, and experience as Caucasian physical therapists who were awarded Senior Physical Therapist status.

3. Mr. Patel requested numerous meetings regarding these issues with his superiors. Although he was previously told that due to his education and experience level he would be/remain a Senior Physical Therapist, he was later told that he did not meet the criteria to be a Senior Physical Therapist. Yet despite his requests, he was not provided with information regarding what the new criteria was. After telling a Human Resources employee that he believed this was discriminatory, he was informed that management would be in contact with him and that there would be a staff meeting to address these issues. While he was driving to this staff meeting on Friday, September 22, 2017, he was “suspended.” Mr. Patel was officially terminated on or about September 27, 2017.

4. Within this Complaint, Plaintiff alleges that he received unequal treatment and was ultimately terminated based on his national origin and/or race, as well as in retaliation for protected activity, in violation of his rights under Title VII of the 1964 Civil Rights Act, 42 U.S.C. § 2000e, *et. seq.*; 42 U.S.C. § 1981, Michigan’s Elliot-Larsen Civil Rights Act, M.C.L. § 37.2101, *et. seq.*, and other state law.

JURISDICITON AND VENUE

5. This Court has original jurisdiction over Plaintiff’s Title VII claims pursuant to 28 U.S.C. § 1331.

6. The U. S. Equal Employment Opportunity Commission (EEOC) Detroit Field Office's issued a Right to Sue letter dated December 11, 2019 (EEOC Charge No. 471-2018-02925).

7. This Court has original jurisdiction of Plaintiff's § 1981 claims pursuant to 28 U.S.C. § 1331.

8. The amount in controversy exceeds \$75,000.00, exclusive of interest, costs and attorney fees.

9. Under 28 U.S.C. § 1367, this Court has supplemental jurisdiction over Plaintiff's state law claims.

10. This Court is the proper venue pursuant to 28 U.S.C. § 1331(b) as a significant amount of the acts and omissions giving rise to this complaint occurred in this judicial district.

PARTIES

11. Plaintiff Sandipkumar Patel is an individual of Indian national-origin and Asian race. He resides in Oakland County, Michigan.

12. Defendant Trinity Health Corporation ("Trinity") is a corporation registered in the State of Indiana with its headquarters in Wayne County, Michigan. Defendant Trinity is the parent corporation of Trinity Home Health Services.

13. Defendant Trinity Home Health Services ("Trinity HHS") is a Michigan corporation with its headquarters in Wayne County, Michigan. Trinity Health at Home

is a registered assumed name of Trinity HHS. St. Joseph Mercy Home Care & Hospice is a registered assumed name of Trinity HHS.

GENERAL ALLEGATIONS

14. Plaintiff Sandipkumar Patel is an individual of Indian national-origin and Asian race. Plaintiff is a member of a protected class based on his national origin and his race.

15. Sandipkumar Patel began working as a Senior Physical Therapist for Defendant Trinity HHS in March 2013 out of their Troy, Michigan location.

16. Defendants' employees at the Troy, Michigan location were considered to be the "Oakland branch."

17. Sandipkumar Patel was an exemplary employee for the Defendant, receiving favorable performance reviews and patient compliments throughout his tenure as a physical therapist.

18. Mr. Patel saw the highest amount of patients outside of his designated area and volunteered to cover work hours outside of his regularly scheduled hours, including weekends and holidays.

19. Mr. Patel has both a bachelor's and a master's degree in physical therapy.

20. Mr. Patel also has a Lee Silverman Voice Treatment (LSVT) certificate, a vocal therapy certificate primarily used to help treat Parkinson's patients.

21. Plaintiff and his Oakland branch coworkers began working out of the Defendants' Farmington Hills, Michigan location in 2017.

22. As of May 21, 2017, Plaintiff had over fourteen (14) years of experience in physical therapy and over three (3) years of experience with the Defendants.

23. When the Defendants implemented a new "pay classification/adjustments" in late May 2017, Mr. Patel was demoted and/or otherwise not promoted.

24. The decision to implement the new pay classification/adjustments was made by the Defendant Trinity and/or the Defendant Trinity HHS.

25. Prior to implementing the new pay classification/adjustments, the Defendants informed employees that, under the new system, Senior Physical Therapists would receive a raise in pay.

26. During an in-person meeting prior to implementation of the new pay classification/adjustments, Defendants' Rehab Manager Melody Bartlett told Plaintiff that new pay classification/adjustments would be based on employees' education and experience.

27. Ms. Bartlett also informed Mr. Patel that based on his education and experience, as well as all of the positive patient references, he would remain classified as a Senior Physical Therapist.

28. Defendants' Therapy Supervisor Karine Pepin also informed him that he would like remain classified as a Senior Physical Therapist.

29. Following implementation of the new pay classification/adjustments, Plaintiff noticed his paycheck was lower and that he was no longer classified as a Senior Physical Therapist.

30. After implementation of the new pay classification/adjustments, the only physical therapists in Defendants' Oakland branch who were classified as Senior Physical Therapists were Caucasian.

31. Caucasian employees who were classified as Senior Physical Therapists had less education and experience than Plaintiff.

32. In Defendants' Oakland branch, none of the physical therapists of Indian national-origin and Asian race were classified as Senior Physical Therapists.

33. The classification of physical therapists as Senior Physical Therapists was made by the Defendant Trinity and/or the Defendant Trinity HHS.

34. Following his meeting with Ms. Bartlett in June 2017, Plaintiff requested numerous meetings regarding these issues with Defendants' managers and supervisors.

35. One of these subsequent meetings included Defendants' Therapy Supervisor Karine Pepin and Stacie Comiskey from Human Resources.

36. Ms. Pepin and Ms. Comiskey, now told Mr. Patel, that despite the prior representations to him, he did not meet the criteria to be classified as a Senior Physical Therapist.

37. During this meeting, Plaintiff requested to know the criteria for being classified as a Senior Physical Therapist. Ms. Pepin and Ms. Comiskey refused to provide this information.

38. Ms. Pepin and Ms. Comiskey refused to provide further information for why Mr. Patel was no longer classified as a Senior Physical Therapist.

39. During this meeting, Mr. Patel explained that it was discriminatory to classify Caucasian staff as Senior Physical Therapists despite having less education, credentials, and experience.

40. After saying it was possibly upper management's decision, Ms. Pepin abruptly left the meeting. At this point Ms. Comiskey, said that she would email Laura Amenda in upper management who would be in touch with Plaintiff.

41. Laura Amenda never contacted the Plaintiff.

42. The Defendants scheduled a staff meeting to discuss who will be classified as a Senior Physical Therapist. The staff meeting was scheduled on or about September 22, 2017.

43. While on his way to the staff meeting, Mr. Patel received a phone call informing him that he was "suspended" from his employment with the Defendants.

44. On Wednesday, September 27, 2017, Sandipkumar Patel was informed that his employment with the Defendants was terminated. At that time, Mr. Patel was provided a termination letter that was dated September 26, 2017.

45. The decision to terminate Mr. Patel's employment was made by personnel at the Defendant Trinity and/or the Defendant Trinity HHS.

46. The reasons provided for termination in the letter are completely pretextual and are the result of the Defendants' own initiatives in contacting Mr. Patel's former patients for the purpose of concocting a pretext for his termination.

47. The reasons provided for termination were not enforced uniformly against other employees, including Caucasian employees, of the Defendants.

48. One of the reasons provided for termination stemmed from a customer/patient requesting that Mr. Patel no longer be her therapist because the customer/patient did not like "his accent."

49. Defendants acquiesced in, or otherwise approved, of Mr. Patel being removed as this customer/patient's therapist because of his Indian accent and then used this interaction as a pretext in his termination.

50. In April 2018, Mr. Patel mailed a letter under Michigan's Bullard-Plawecki Right to Know Act requesting a copy of, or on-site inspection of, his employment file.

51. Because Defendants did not respond to this letter within a reasonable time, Plaintiff sent a second letter in early May 2018, via certified mail.

52. Defendants responded to this letter by sending Plaintiff the employment file for one of Plaintiff's coworkers Viral Patel, who is also of Indian national origin and Asian race.

53. Plaintiff then sent a third letter in June 2018, and made phone calls to Trinity, pointing out that Defendants sent the wrong employee file to him and reiterating his prior written requests for his employment file.

54. Defendants have refused to provide Mr. Patel with his employee file or to permit an inspection of it.

COUNT I
RACE & NATIONAL ORIGIN DISCRIMINATION
TITLE VII, 42 U.S.C. § 2000e, et seq.

55. All preceding paragraphs are incorporated by reference.

56. At all relevant times, Plaintiff and Defendants were covered by and within the meaning of the Title VII of the Civil Rights Act of 1964 (Title VII), 42 U.S.C. § 2000e *et seq.*

57. Plaintiff's race and/or national origin was a factor that made a difference in Defendants' discriminatory decision to demote, or otherwise fail to maintain, Plaintiff to be classified and paid as a Senior Physical Therapist.

58. Plaintiff's race and/or national origin was a factor that made a difference in Defendants' discriminatory decision to terminate Plaintiff's employment, including

citing a reason that involved a customer/patient asking to no longer be treated by Plaintiff because of his Indian accent.

59. Defendants treated Plaintiff different than similarly-situated Caucasian physical therapists.

60. Defendants' actions were intentional, with reckless indifference and in disregard of Plaintiff's rights and sensibilities.

61. Defendants' actions were motivated by animus towards the race and/or national origin of the Plaintiff.

62. As a direct and proximate result of Defendants' unlawful actions, Plaintiff has sustained injuries and damages including, but not limited to, loss of pay, loss of benefits, loss of career opportunities, humiliation and embarrassment, mental anguish and emotional distress, loss of professional reputation and loss of the ordinary pleasures of everyday life, including the right to pursue gainful occupation of choice and incurred substantial liability for attorney fees.

COUNT II
RETALIATION
TITLE VII, 42 U.S.C. § 2000e, et seq.

60. All preceding paragraphs are incorporated by reference.

61. Plaintiff engaged in activity protected by Title VII, 42 U.S.C. § 2000e *et seq.* when he told his supervisors and managers that other Caucasian employees who

were kept at, or raised to, Senior Physical Therapist status and pay had less experience and education than himself and his Indian and Pakistani coworkers.

62. Plaintiff engaged in activity protected by Title VII, 42 U.S.C. § 2000e, *et seq.*, when he told his superiors that a customer/patient had called him requesting he no longer work as her therapist because of his accent.

63. Defendants' demotion of Plaintiff's classification and pay on this basis violates Title VII, 42 U.S.C. § 2000e *et seq.*

64. Defendants' termination of Plaintiff's employment on this basis violates Title VII, 42 U.S.C. § 2000e *et seq.*

65. As a direct and proximate result of Defendants' unlawful actions, Plaintiff has sustained injuries and damages including, but not limited to, loss of pay, loss of benefits, loss of career opportunities, humiliation and embarrassment, mental anguish and emotional distress, loss of professional reputation and loss of the ordinary pleasures of everyday life, including the right to pursue gainful occupation of choice and has incurred attorney fees.

COUNT III
RACIAL DISCRIMINATION
42 U.S.C. § 1981

63. All preceding paragraphs are incorporated by reference.

64. Plaintiff is a member of a protected class.

65. As an employee, Plaintiff had a contractual employment relationship with Defendants.

66. Plaintiff was demoted, disciplined, and terminated while performing at the same level as Caucasian comparators and engaging in the same conduct as Caucasian employees.

67. Plaintiff received disparate treatment compared to Caucasian comparators in violation of his right to make and enforce contracts pursuant to 42 U.S.C. § 1981.

68. Plaintiff was terminated in violation of his right to make and enforce contracts pursuant to 42 U.S.C. § 1981.

69. As a direct and proximate result of Defendants' unlawful actions, Plaintiff has sustained injuries and damages including, but not limited to, loss of pay, loss of benefits, loss of career opportunities, humiliation and embarrassment, mental anguish and emotional distress, loss of professional reputation and loss of the ordinary pleasures of everyday life, including the right to pursue gainful occupation of choice and has incurred attorney fees.

COUNT IV
RETALIATION
42 U.S.C. § 1981

70. All preceding paragraphs are incorporated by reference.

71. Plaintiff engaged in activity protected by 42 U.S.C. § 1981 when he pointed out to his superiors that other Caucasian employees who were kept at, or raised

to, Senior Physical Therapist status had less experience and education than that of himself and his Indian and Pakistani coworkers.

72. Defendants' termination of Plaintiff's employment on this basis violates 42 U.S.C. § 1981.

73. As a direct and proximate result of Defendants' unlawful actions, Plaintiff has sustained injuries and damages including, but not limited to, loss of pay, loss of benefits, loss of career opportunities, humiliation and embarrassment, mental anguish and emotional distress, loss of professional reputation and loss of the ordinary pleasures of everyday life, including the right to pursue gainful occupation of choice and has incurred attorney fees.

COUNT V
RACE & NATIONAL ORIGIN DISCRIMINATION
ELLIOT-LARSEN CIVIL RIGHTS ACT, M.C.L. § 37.2101, et seq.

74. All preceding paragraphs are incorporated by reference.

75. At all relevant times, Plaintiff and Defendants were covered by and within the meaning of the Michigan Elliott-Larsen Civil Rights Act (ELCRA), MCL 37.2101 *et seq.*

76. Defendants treated and disciplined Plaintiff differently than similarly-situated Caucasian employees.

77. Plaintiff's race and/or national origin was a factor that made a difference in Defendants' decision with treatment and discipline to Plaintiff, including his termination.

78. Defendants' actions were intentional, with reckless indifference and in disregard of Plaintiff's rights and sensibilities.

79. Defendants' actions were motivated by animus towards the race and/or national origin of the Plaintiff.

80. As a direct and proximate result of Defendants' unlawful actions, Plaintiff has sustained injuries and damages including, but not limited to, loss of pay, loss of benefits, loss of career opportunities, humiliation and embarrassment, mental anguish and emotional distress, loss of professional reputation, and loss of the ordinary pleasures of everyday life, including the right to pursue gainful occupation of choice and incurred substantial liability for attorney fees.

**COUNT VI
RETALIATION**

ELLIOT-LARSEN CIVIL RIGHTS ACT, M.C.L. § 37.2101, et. seq.

72. All preceding paragraphs are incorporated by reference.

73. Plaintiff engaged in activity protected by ELCRA, M.C.L. § 37.2101, *et seq.* when he pointed out to his superiors that other Caucasian employees who were kept at, or raised to, Senior Physical Therapist status had less experience and education than that of himself and his Indian and Pakistani coworkers.

74. Plaintiff engaged in activity protected by ELCRA, M.C.L. § 37.2101, *et seq.* when he told his superiors that a customer/patient had called him requesting he no longer work as her therapist because of his accent.

75. As a result of Plaintiff's protected activity, Plaintiff was terminated.

76. As a direct and proximate result of Defendants' unlawful actions, Plaintiff has sustained injuries and damages including, but not limited to, loss of pay, loss of benefits, loss of career opportunities, humiliation and embarrassment, mental anguish and emotional distress, loss of professional reputation, and loss of the ordinary pleasures of everyday life, including the right to pursue gainful occupation of choice and incurred substantial liability for attorney fees.

COUNT VII
VIOLATION OF BULLARD-PLAWECKI EMPLOYEE
RIGHT TO KNOW ACT, M.C.L. § 423.501, et. seq.

77. All preceding paragraphs are incorporated by reference.

78. At all relevant times, Plaintiff and Defendants were covered by and within the meaning of "employee" and "employer" as defined by M.C.L. § 423.501, *et. seq.*

79. In April 2018, Plaintiff mailed a letter under Michigan's Bullard-Plawecki Right to Know Act requesting a copy of, or on-site inspection of, his employment file.

80. Because Defendants did not respond to this letter within a reasonable time, Plaintiff sent a second letter in early May 2018, via certified mail.

81. Defendants responded to this letter by sending Plaintiff the employment file for one of Plaintiff's coworkers Viral Patel, who is also of Indian national origin and Asian race.

82. Plaintiff then sent a third letter in June 2018, and made phone calls to Defendants, pointing out that they sent the wrong employee file to him and reiterating his prior written requests for his employment file. Defendants still have not sent Plaintiff his employee file.

83. Any of Plaintiff's personnel record information which was not sent to Plaintiff or otherwise not included in the personnel record that was sent shall neither be used by Defendants in this proceeding, nor any other judicial or quasi-judicial proceeding pursuant to M.C.L. § 423.502, Section 2.

84. As a direct and proximate result of Defendants' willful and knowing violation of M.C.L. § 423.501 *et. seq.*, Plaintiff shall be rewarded actual damages plus costs and attorneys' fees.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff requests a jury trial in this case and that this Honorable Court enter judgment in favor of the Plaintiff in an amount that is fair, just and equitable for the injuries so wrongfully sustained, including but not limited to:

- a. Reinstatement to the position of Senior Physical Therapist;

- b. Lost wages and benefits, past and future;
- c. Economic and noneconomic compensatory damages, past and future;
- d. Punitive and exemplary damages;
- e. Reasonable attorney fees, costs and interest; and
- f. Other legal and equitable relief as this Court deems just and proper.

Respectfully submitted,

By: /s/ Tony D. Paris
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DATE: February 27, 2020

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DEMAND FOR TRIAL BY JURY

Plaintiff Sandipkumar Patel hereby demands a trial by jury in the above-captioned matter.

Respectfully submitted,

By: /s/ Tony D. Paris
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DATE: February 27, 2020